

0150-12367-0000

T R A N S M I T T A L

TO
Eugene D. Seroka, Executive Director
Harbor Department

DATE
06/26/2023

COUNCIL FILE NO.

FROM
The Mayor

COUNCIL DISTRICT
15

**RESOLUTION NO. 23-10164 AND PROPOSED FIRST AMENDMENT
TO REIMBURSEMENT AGREEMENT NO. 20-3762 WITH PHILLIPS 66 COMPANY
FOR ENVIRONMENTAL PREPARATION AND ASSESSMENT SERVICES**

Approved and transmitted for further processing including Council consideration.
See the City Administrative Officer report attached.



MAYOR
(Chris Thompson for)

Attachment

MWS/PJH/JVW:shf:10230179t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 05, 2023

CAO File No. 0150-12367-0000

Council File No.

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from Los Angeles Board of Harbor Commissioners (Board) dated April 27, 2023 regarding April 27, 2023 Board Resolution; referred by the Mayor for report on April 28, 2023

Subject: **RESOLUTION NO. 23-10164 AND PROPOSED FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT NO. 20-3762 WITH PHILLIPS 66 COMPANY**

RECOMMENDATIONS

1. Approve Los Angeles Harbor Department (Port) Resolution No. 23-10164 authorizing approval of proposed First Amendment to Reimbursement Agreement No. 20-3762 with Phillips 66 Company to extend the term by two years from August 21, 2023 through August 20, 2025;
2. Adopt the April 27, 2023 Board of Harbor Commissioners findings that the proposed action is administratively exempt from the requirements of California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines; and
3. Authorize the Port Executive Director, or designee, to execute the proposed agreement, already approved as to form by the City Attorney, and return the Resolution to Port for further processing, including Council consideration.

SUMMARY

The Los Angeles Board of Harbor Commissioners (Board) requested approval of its April 27, 2023 Resolution No. 23-10164 (Attachment 1) authorizing approval of proposed First Amendment to Reimbursement Agreement No. 20-3762 (Agreement) between Los Angeles Harbor Department (Port) and Phillips 66 Company (Phillips 66) to extend the term of the agreement from August 21, 2023 through August 20, 2025. Under the Agreement, Phillips 66 agrees to reimburse the Port for 100% of staff and consultant costs, as well as outside legal defense costs (if necessary) associated with its performance and preparation of an environmental assessment related to the

proposed Berths 148-151 (Phillips 66) Marine Oil Terminal and Wharf Improvement Project (Project). The additional two years is needed to complete additional environmental review and the \$350,000 in estimated Port costs currently remains unchanged, though projected to increase based on the additional environmental review. Phillips 66 is financially responsible for payment of expenditures incurred under the Agreement and proposed amendment.

The proposed amendment has been approved as to form by the City Attorney. Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5, Council approval is required because the cumulative contract term exceeds three years. Our office has reviewed the request and recommends approval.

BACKGROUND

On July 23, 2020, the Board approved the original Agreement 20-3762 with Phillips 66 for preparation costs of the environmental assessment associated with the proposed Project for a contract term of three years through August 20, 2023. The proposed first amendment would extend the duration of the Agreement from three years to five years and is necessary to complete additional environmental review.

The proposed Project consists of vessel berthing improvements at the Port of Los Angeles (POLA) Berths 148-149 and construction of a new concrete wharf at Berths 150-151 to comply with the Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) as required by the California State Lands Commission (CSLS). MOTEMS are building standards per California Building Code that apply to all marine oil terminals in California to protect public health, safety and the environment. The proposed Project also includes consideration of a new 20-year entitlement, with two potential 10-year additional options, to Phillips 66 for continued operations at Berths 148-151.

Berths 148-151 have been used as oil terminals since they were developed in the early 1920 (150-151) and 1950s (148-149). The wharf at Berths 150-151 is predominantly timber, while the wharf at Berths 148-149 was reconstructed in concrete in the 1950s. The existing timber wharf at Berths 150-151 has deteriorated extensively and is classified as “not fit for service” under MOTEMS. Phillips 66 currently conducts all of its marine oil terminal operations at adjacent Berths 148-149.

Environment Assessment – As the California Environmental Quality Act (CEQA) lead agency, the Port has begun conducting the necessary environmental assessment activities and special studies to satisfy the requirements of CEQA. The Port has consulting agreements in place for as-needed CEQA environmental services and selected Ramboll US Consulting Inc. as the lead consultant to perform environmental assessment work for the Project. Initially, the assessment was being assessed through a Mitigated Negative Declaration. Upon receipt of public comments requesting a more comprehensive analysis, the Port decided to proceed with the assessment under an Environmental Impact Report (EIR). On February 23, 2023, the Port released a Notice of Preparation of an EIR for public review and comment.

Reimbursement – Under the Agreement, Phillips 66 agreed to reimburse the Port fully of all staff, consultant(s), and outside counsel costs for the preparation, review, and legal defense (if necessary) of the environmental document for the Project. The total estimated costs under the Agreement is \$350,000, of which the Port has invoiced \$283,141 through February 28, 2023. This estimate does not include legal defense costs due to the uncertainty of estimating the existence or nature of potential litigation costs and are expected to increase for the additional environmental work. Phillips 66 is responsible for any cost estimate increases that may occur during the evaluation of the Project.

CITY COMPLIANCE

The City Attorney has reviewed and approved the proposed amendment to agreement No. 20-3762 as to form. Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5, Council approval is required because the contract term exceeds three years.

California Environmental Quality Act (CEQA) – On April 27, 2023, the Board determined that the proposed amendment with Phillips 66 Company is administratively exempt from requirements of the CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FISCAL IMPACT STATEMENT

Under the Agreement terms, Phillips 66 Company is required to reimburse the Port for all staff, consultant(s), and, if necessary, legal defense costs associated with the preparation of the environmental assessment for the Project. There is no impact on the City's General Fund. The recommendations in this report and proposed actions comply with the Port's Financial Policies.

Attachment 1 – April 27, 2023 Harbor Board report, Resolution 23-10164

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